

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

CLIFFORD A. LOWE, *et al.*,

Plaintiff, :

vs. :

SHIELDMARK, INC., *et al.*,

Defendants. :

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Case No. 1:19-cv-748

OPINION & ORDER
[Related Doc. 77]

JAMES S. GWIN, UNITED STATES DISTRICT JUDGE:

Upon further consideration, the Court orders the parties to submit supplemental briefing regarding the '664 patent invalidity arguments raised in Defendants' motion for summary judgment.¹

The U.S. Court of Appeals for the Federal Circuit ordered that this Court "adopt [Plaintiff] Lowe's construction" of the terms "lateral edge portion," "coplanar extension," and "central body portion."²

With respect to the claims that remain disputed in this case, the Court requests that Defendants to brief how the Federal Circuit's construction of those terms impacts its arguments that 1) the '664 patent fails the written description and enablement requirements of 35 U.S.C. § 112; 2) the DuraStripe prior art sales argument; and 3) the Dorenbusch anticipation argument.

The Court requests Plaintiff to provide a response.

The Court ORDERS the parties to provide 1) a listing of all claims that remain at issue; 2) a listing of all at-issue claims that Defendants say are invalid for failing to satisfy the written description and enablement requirements of 35 U.S.C § 112; and 3) a listing of

¹ Doc. 77.

² Doc. 110 at 16.

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all at-issue claims that Defendants say are invalid because of the DuraStripe prior sales or because of the Dorenbusch patent/prior art.

Defendants to file their brief within 14 days of this order, and Plaintiff to file its brief within 7 days of Defendants' brief.

Further, the Court may adjust the trial schedule as necessary.

IT IS SO ORDERED

Dated: May 31, 2022

s/ James S. Gwin
JAMES S. GWIN
UNITED STATES DISTRICT JUDGE